

# NewsNotes

SPECIAL ELECTIONS  
EDITION

SEPTEMBER 1, 2004

## Elections-what you can and cannot do; politicking rules for government employees

by Donna Miles, American Forces Press Service

With election activity steadily picking up, defense officials remind members of the military and Defense Department civilians that they're subject to rules regulating their involvement in political activities.

Gone are the days when the military posted troops at the polls after the Civil War, an act that Steve Epstein, director of the DoD General Counsel's Standards of Conduct Office, said intimidated many southerners into not voting.

Today, Epstein said two sets of rules help protect the integrity of the political process: a DoD directive for active-duty servicemembers and the Hatch Act for federal civilians. These rules keep the military out of partisan politics and ensure that the workplace remains politically neutral, he said.

### Voting encouraged

That's not to imply that military members and civilian employees can't participate in politics. Epstein said DoD encourages both groups to register to vote and vote as they choose, and to urge others to vote. Both groups can sign nominating petitions for candidates and express their personal opinions about candidates and issues--but only if they don't do so as repre-

sentatives of the armed forces. Also, all federal employees can make contributions to political organizations or candidates.

### Dos and don'ts

Beyond that, the list of dos and don'ts differs widely, depending on whether the employee is an active-duty servicemember, a rank-and-file Civil Service employee, a political appointee or member of the career Senior Executive Service, Epstein said.

Of all DoD employees, the men and women in uniform have the most restrictions regarding political activity, he explained. A 1993 revision to the Hatch Act freed most Civil Service employees to engage in political activities outside the workplace that were once forbidden, although many restrictions still apply.

For example, servicemembers as well as government civilians can attend political meetings or rallies. Military members can attend only as spectators and not in uniform. They're not permitted to make public political speeches, serve in any official capacity in partisan groups, or participate in partisan political campaigns or conventions.

On the other hand, civilian employees governed by the Hatch Act may be active in and speak

(Continued on page 18)

### Inside:

DoD message on political campaigns, p. 2  
Election year guidance from the Acting Secretary of the Army, p. 6

Excerpt from AR 360-1, p. 8

Hatch Act, p. 9

Hatch Act Questions, p. 11

Ensure Absentee Ballots count, p. 12

Frequently asked questions, p. 13,

SecDef Msg 0312052112Z

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**Subj: DoD Public Affairs Policy Guidance Concerning Political Campaigns and Elections**

Addressees pass to all subordinate commands

Refs:

- A. SecDef Msg 171724Z Sep 02, DoD Public Affairs Policy Guidance Concerning Political Campaigns and Elections
- B. DoD Directive 1344.10, Political Activities by Members of the Armed Forces on Active Duty
- C. 5 U.S.C. §§ 7321-7326, The Hatch Act of 1939, as amended in 1993
- D. 5 C.F.R. Parts 733-734, Political Activities of Federal Employees
- E. DoD Directive 5230.9, Clearance of DoD Information for Public Release
- F. DoD Instruction 5120.4, DoD Newspapers, Magazines and Civilian Enterprise Publications
- G. DoD Instruction 1100.13, Surveys of DoD Personnel
- H. DoD Directive 5120.20, Armed Forces Radio and Television Service (AFRTS)
- I. DoD Regulation 5120.20-R, Management and Operation of AFRTS
- J. DoD Directive 1334.1, Wearing the Uniform
- K. AFI 36-2903, Dress and Personal Appearance of Air Force Personnel
- L. AR 670-1, Wear and Appearance of Army Uniforms and Insignia
- M. NAVPERS 15665I, United States Navy Uniform Regulations
- N. MCOP 1020.34G, Marine Corps Uniform Regulations
- O. DoD Directive 5410.18, Public Affairs Community Relations Policy
- P. DoD Instruction 5410.19, Public Affairs Community Relations Policy Implementation
- Q. DoD Directive 1000.4, Federal Voting Assistance Program (FVAP)
- R. 2002-2003 DoD Voting Assistance Guide, as amended
- S. DoD Directive 1344.13, Implementation of the National Voter Registration Act (NVRA)

1. Commanders shall comply with this policy guidance concerning political campaigns and elections. This guidance governs activities relating to federal, state, and local political campaigns and elections. Consistent with this guidance, commanders should encourage and welcome visits by candidates seeking to receive briefings, tours, or other official DoD information. Further, nothing in this guidance is intended to inhibit the appropriate representation by elected officials of constituents who happen to live or work on a military installation.

2. This message supersedes Ref. A, and shall remain in effect until amended. Addressees will ensure widest dissemination, implementation, and compliance.

3. National Guard armories and other state facilities should review applicable state law for additional guidance and restrictions.

4. Political campaigns and elections defined. A political campaign or election begins when a candidate, includ-

*(Continued on page 3)*

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ing an incumbent office-holder, makes a formal announcement that he or she seeks to be elected to a federal, state, or local political office. A political campaign or election also begins when an individual files a candidacy with the federal election commission or equivalent state or local regulatory office. Once initiated, a political campaign or election does not end until one week after the conclusion of the relevant election.

5. General policy. As a matter of long-standing policy, DoD personnel acting in their official capacity may not engage in activities that associate DoD with any partisan political campaign or election, candidate, cause or issue. Political activity by members of the armed forces continues to be governed by Ref. B. Political activity by federal civilian personnel continues to be governed by Refs. C and D.

6. Inquiries from political campaign organizations. DoD personnel must forward all inquiries from political campaign organizations to a public affairs officer (PAO) for awareness and appropriate action. In response to specific inquiries, PAOs will only provide information that is available to the general public. Ref. E pertains.

7. DoD newspapers, magazines, and publications. Per Ref. F, DoD newspapers, magazines, and civilian enterprise publications will not publish information provided by a candidate's campaign organization, partisan advertisements and discussions, or cartoons, editorials, and commentaries dealing with political campaigns or elections, candidates, causes, or issues. Per Ref. G, DoD newspapers and civilian enterprise publications may not conduct or publish polls, surveys, or straw votes relating to political campaigns or elections, candidates, causes, or issues.

8. Armed Forces Radio and Television Service. Per Refs. H and I, AFRTS will provide a free flow of balanced, informational coverage of political campaigns and elections provided by U.S. Commercial and public networks free of charge. AFRTS will exercise great care to provide news regarding political campaigns and elections absent political comment, analysis, or interpretation. Although AFRTS may include political comment, analysis, or interpretation from sources provided by U.S. commercial and public networks free of charge as part of its informational coverage, AFRTS will not support or oppose any candidates, causes, or issues. Additionally, AFRTS will not broadcast advertisements or announcements paid for by a candidate, an organized political party, or a private group seeking to influence the outcome of a political campaign or election.

9. Use of installation facilities by candidates. Installation commanders will not permit the use of installation facilities by any candidate for political campaign or election events, including: public assemblies or town hall meetings, speeches, fund-raisers, press conferences, post-election celebrations, and concession addresses. This policy does not prohibit members of congress and other elected officials from visiting military installations to receive briefings, tours, or other official DoD information. Installation commanders will ensure that candidates who visit military installations to conduct official business do not engage in any political campaign or election activity during the visit. The preceding prohibition does not apply to the President, the Vice President, or the Speaker of the House of Representatives. To avoid the appearance of preferential treatment, installation commanders should offer all candidates for national office who are not current members of congress or serving governmental officials the same access to installations as any other unofficial visitor. Installation commanders should consult service chiefs of legislative liaison for guidance or instructions regarding specific visitation requests.

10. Media coverage of installation visits. When an installation commander invites a candidate to an installation to participate in official business, and the media seeks to cover the event, the candidate may appear on camera and in photographs as an official participant, but may not make a statement or respond to media queries while on the installation. The SecDef may authorize exceptions to this policy on a case-by-case basis for the Pentagon reservation, but under no circumstances will a candidate receive approval to make a campaign or election-related statement or to respond to a campaign or election-related media query. When an elected offi-

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cial arrives or departs a military installation via military aircraft, the installation commander will not authorize media coverage of the arrival or departure if the elected official's itinerary includes political campaign or election activity in the local community. The preceding prohibition does not apply to the President, the Vice President, or the Speaker of the House of Representatives. When the President, Vice President, or Speaker of the House arrives or departs a military installation via military aircraft and part of that official's itinerary includes political campaign or election activity in support of a particular candidate, the installation commander will allow the media a photo opportunity to cover the arrival or departure of the President, Vice President, or Speaker of the House, but will not allow the supported candidate to be present during the photo opportunity. Installation commanders anticipating a visit by the President, Vice President, or Speaker of the House that may involve political campaign or election activities should contact staff assistants planning the visit to ensure all concerned are aware of the provisions of DoD's public affairs policy guidance.

11. Support of political events by military personnel. DoD maintains a long-standing policy that DoD personnel acting in their official capacity may not engage in activities that associate DoD with any partisan political campaign or election, candidate, cause, or issue. Consistent with this policy guidance, installation commanders will decline requests for military personnel to appear in or support political campaign or election events. All military personnel, including National Guard and reserve forces, are prohibited from wearing military uniforms at political campaign or election events. Refs. J, K, L, M and N pertain. This policy is not applicable to the provision of joint armed forces color guards at the opening ceremonies of the national conventions of the Republican, Democratic, and other political parties formally recognized by the federal election commission.

12. Public commentary by military personnel. All military personnel, including National Guard and reserve forces, acting in their official capacity may not engage in public commentary, including speeches and written submissions offered for publication, concerning political campaigns or elections absent prior clearance. Refs. B, E, F, O, and P pertain.

13. Political campaign or election literature. Military personnel, including National Guard and reserve forces, shall not distribute political campaign or election literature while in uniform, while acting in their official capacity, or while on a military installation. Installation commanders will only allow distribution of political campaign or election literature on installations as authorized by military department regulations.

14. Filming, photographing, or taping on military installations. Installation commanders will not allow candidates or their agents to film, photograph, or tape military equipment (e.g. ships, tanks, and aircraft) for use in political campaign or election advertisements, commercials, or literature. Absent exceptional operational security concerns, this guidance does not apply to candidates or their assistants who elect to film, photograph, or tape military equipment from a location outside the confines of an installation.

15. Federal Voting Assistance Program. DoD encourages all active duty military and civilian personnel and their eligible family members to register and vote. Consistent with Refs. O and P, DoD will support the Federal Voting Assistance Program by publishing factual information about registration and voting laws, with special emphasis on absentee voting requirements. Additionally, commanders will provide voting assistance officers at every level of command, and ensure they are trained and equipped to provide voting assistance. Commanders responsible for operation of military post offices should ensure expeditious processing of balloting material and proper postmarking and date stamping of absentee ballots. Voting assistance information is available through the Director, DoD Federal Voting Assistance Program, Washington Headquarters Services, 1155 Defense Pentagon, Washington, D.C. 20301-1155. Voting assistance information also is available by telephone at commercial (800) 438-8683, (703) 588-1584, DSN 425-1584, by fax (703) 588-0108, DSN 425-0108, by e-mail (all lower case) [vote@fvap.ncr.gov](mailto:vote@fvap.ncr.gov), or at website [www.fvap.gov](http://www.fvap.gov).

*(Continued on page 5)*

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16. National Voter Registration Act. Armed forces recruitment offices must review Ref. Q to ensure compliance with the National Voter Registration Act.

17. Installation facilities as polling places:

a. If as of December 31, 2000, an installation facility was designated as an official polling place by a state or local election official or has been used as a polling place since January 1, 1996, installation commanders shall not deny the use of that facility as a polling place for federal, state, or local elections. The SecDef or the Secretary of the Military Department concerned may grant a waiver of the requirement to allow use of the facility if that Secretary determines that local security conditions require prohibition of the designation or use of that facility as an official polling place for any election. Because locating polling places on a military installation may cause DoD personnel inadvertently to violate one or more of the following statutes: 18 U.S.C. 592, 593, 594, 596, 602, 603, 606, 607, and 609; installation commanders should ensure that all active duty military personnel remain clear of such polling places except as necessary to exercise their individual voting rights.

b. With respect to any installation facility not covered by Para.17.a, installation commanders should not allow the use of installation facilities as polling places for federal, state, or local elections.

18. The point of contact for media questions regarding DoD public affairs policy guidance concerning political campaigns and elections is Mr. Glenn Flood, Office of the Assistant Secretary of Defense for Public Affairs (OASD(PA)), DoD Press Operations Office, at commercial (703) 695-6294 or DSN 225-6294. Additionally, legal interpretation of this guidance is available from local legal advisors. The DoD General Counsel is the final authority in DoD for resolution of disputes or other significant potential problems concerning legal interpretation of this guidance.

19. Concerns and issues involving federal candidates. The OASD(PA) point of contact for all concerns, disputes, unresolved issues, or potential problems involving federal candidates is Mr. Glenn Flood, DoD Press Operations Office, at commercial (703) 695-6294 or DSN 695-6294. Installation commanders and public affairs officers are directed to notify OASD (PA) of all such concerns, disputes, unresolved issues, or potential problems, including those that are resolved amicably.



NewsNotes is an authorized publication of the U.S. Army Installation Management Agency, Northeast Region, Fort Monroe, Va. It is designed to exhaustively cover a subject of interest to the soldiers, Department of the Army civilians and family members of the IMA Northeast Region. It is published electronically as required. Contributions and suggestions for future issues are welcome and may be submitted to the editor via e-mail: [Sandy.Goss@Monroe.Army.Mil](mailto:Sandy.Goss@Monroe.Army.Mil)

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DEPARTMENT OF THE ARMY  
WASHINGTON DC 20310

JUL 26 2004

MEMORANDUM FOR PRINCIPAL OFFICIALS OF HEADQUARTERS,  
DEPARTMENT OF THE ARMY

SUBJECT: Election Year Guidance and Contacts with Members of Congress

As we approach the final months of the 2004 election season, I want to ensure that you are aware of, and comply with, Department of Defense and Army election year policy. As a matter of long-standing policy, the Army does not engage in activities that associate the Army with partisan political causes or candidates.

Installation commanders will not permit the use of installation facilities by any candidate for political campaign or election events. Candidates are encouraged and welcomed to receive briefings, tours, or other official DoD information. Requests from Members of Congress to visit an installation should be referred to the Office of the Chief Legislative Liaison. Candidates who are not Members of Congress should be given the same access to installations as any other unofficial visitor. Installation commanders will ensure that candidates who visit military installations to conduct official business do not engage in political campaign or election activity during the visit.

Candidates will not be allowed to film or tape campaign commercials in front of military equipment, while on Army installations and facilities. Installation commanders will decline requests for Army speakers to appear in political campaign or election events. Requests for information from political campaign organizations will be considered on the same basis as requests from the general public.

Army newspapers, periodicals, and civilian enterprise publications will not publish information provided by a candidate's campaign organization, partisan advertisements and discussions, or cartoons, editorials, and commentaries dealing with political campaigns, candidates, or issues. American Forces Radio and Television Service will provide a free flow of balanced, informational coverage of political campaigns and elections provided by U.S. commercial and public networks.

I encourage all military members and employees to vote. I expect all Army leaders to fully support the Voting Assistance Program.

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Active duty military members and civilian employees are subject to a number of limitations that generally preclude them from actively participating in partisan political activities. DoD Directive 1344.10, "Political Activities by Members of the Armed Forces" contains DoD policy governing political activities of military members on active duty. A January 21, 2004, memorandum from the Deputy Secretary of Defense provides guidance for civilian employees' participation in political activities.

This memorandum is not intended to provide you with exclusive or complete guidance on this subject. Army Regulation 360-1 contains additional guidance concerning election year activities while this memorandum is not intended to provide you with exclusive or complete guidance. Under all circumstances I expect you to use good judgment in handling these issues, consistent with our policy of nonpartisanship.



R. L. Brownlee  
Acting Secretary of the Army

## **Excerpt from AR 360-1, The Army Public Affairs Program**

15 September 2000

### **3—4. Election year policies**

a. Department of Defense's annually issued PA guidance on election year activities amplifies this regulation. Consult the Office of the Chief of Legislative Liaison (OCLL) for special instructions and advice if there is any doubt on how to handle a specific activity, visit, or event. Generally, DOD does not engage in activities that could be interpreted as an association with any partisan political causes, issues, or candidates.

(1) The political activities of individual military members are regulated by DOD Directive 1344.10.

(2) The political activities of civilian employees are restricted by the Hatch Act Amendments (5 USC 7321—7326)

b. Consider inquiries from political campaign workers as queries from the general public, and respond accordingly. Provide only information/material that is available to the general public.

c. Members of Congress (whether or not candidates for re-election to national office) may visit military installations to receive briefings, tours, and/or informational materials if the member is currently a Government official whose related duties require such a visit. Visitors must be reminded that they may not use the visit as a campaign vehicle

d. Department of Defense PA broadcast activities and publications, both Army funded (AF) and CE, will support the Federal Voting Assistance Program by carrying factual information about registration and voting laws, especially information on absentee voting requirements of the various states and territories.

e. Armed Forces Radio and Television Service (AFRTS) will broadcast a free flow of balanced, non-funded, informative political campaign coverage provided by U.S. commercial and public networks. AFRTS outlets should extensively use such programming to include political analysis, commentary, and PA programs in addition to hard news. AFRTS outlets should exercise great care to maintain well-balanced political news coverage without local comment, criticism, analysis, or political interpretation.

f. Prohibitions.

1) Public affairs programs and publications will not carry campaign news, partisan discussions, cartoons, editorials, or commentaries dealing with political campaigns, candidates, or issues in accordance with DODI 5120.4

(2) Civilian enterprise newspapers or Web sites may not carry paid political advertisements or advertisements that advocate a particular position on a political issue

(3) No PA program, DOD newspaper, or CE endeavor may conduct a poll, survey, or straw vote relating to a political campaign or partisan political issue

(4) Military installations will not be used— By any incumbents or new office seeking candidates, their staff members, or their campaign representatives for—

(a.) political assemblies or meetings, media events (including speeches), fundraising social events or causes regardless of sponsorship, press conferences, and/or any other activity that could be construed as politically oriented.

(b.) For polling or voting sites.

(c) As postelection acceptance speech or activity sites.

(5) Requests for community relations support (including bands, color guards, personnel, and speakers) to political meetings, ceremonies, and similar events (whether on the installation or in the civilian community) will be denied.

(6) Requests to tape or film political campaign commercials in front of military equipment on Government-owned or leased military property will be denied.

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August 27, 2004

### Hatch Act for Federal Employees

The Hatch Act restricts the political activity of executive branch employees of the federal government, District of Columbia government and some [state and local employees](#) who work in connection with federally funded programs. In 1993, Congress passed legislation that significantly amended the Hatch Act as it applies to federal and D.C. employees ([5 U.S.C. §§ 7321-7326](#)). (These amendments did not change the provisions that apply to state and local employees. [5 U.S.C. §§ 1501-1508](#).) Under the amendments most federal and D.C. employees are now permitted to take an active part in political management and political campaigns. [A small group of federal employees are subject to greater restrictions](#) and continue to be prohibited from engaging in partisan political management and partisan political campaigns.

OSC has developed a number of [booklets, posters and fact sheets](#) that explain the application of the Hatch Act. Copies of the booklets and posters can be ordered from the [Government Printing Office](#). The fact sheet may be downloaded or emailed directly from the OSC website. Additionally, OSC has created a PowerPoint presentation - "[Political Activity and the Federal Employee](#)" - which covers the rules and regulations of the Hatch Act.

- [Permitted/Prohibited Activities for Employees Who May Participate in Partisan Political Activity](#)
- [Agencies/Employees Who Are Prohibited From Engaging in Partisan Political Activity](#)
- [Permitted/Prohibited Activities for Employees Who May Not Participate in Partisan Political Activity](#)
- [Hatch Act Regulations](#)
- [Penalties for Violating the Hatch Act](#)
- [Advisories for Federal Employees](#)
- [Frequently Asked Questions and Answers for Employees Who May Engage in Partisan Political Activity](#)

Federal employees should also be aware that certain political activities may also be criminal offenses under title 18 of the U.S. Code. See [18 U.S.C. §§ 210, 211, 594, 595, 600, 601, 602, 603, 604, 605, 606, 607, 610](#).

### Permitted/Prohibited Activities for Employees Who May Participate in Partisan Political Activity

These federal and D.C. employees **may**-

- be candidates for public office in nonpartisan elections
- register and vote as they choose
- assist in voter registration drives
- express opinions about candidates and issues
- contribute money to political organizations
- attend political fundraising functions
- attend and be active at political rallies and meetings
- join and be an active member of a political party or club
- sign nominating petitions
- campaign for or against referendum questions, constitutional amendments, municipal ordinances
- campaign for or against candidates in partisan elections

(Continued from page 9)

- make campaign speeches for candidates in partisan elections
- distribute campaign literature in partisan elections
- hold office in political clubs or parties

These federal and D.C. employees **may not**-

- use official authority or influence to interfere with an election
- solicit or discourage political activity of anyone with business before their agency
- solicit or receive political contributions (may be done in certain limited situations by federal labor or other employee organizations)
- be candidates for public office in partisan elections
- engage in political activity while:
  - on duty
  - in a government office
  - wearing an official uniform
  - using a government vehicle
  - wear partisan political buttons on duty

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#### Agencies/Employees Prohibited From Engaging in Partisan Political Activity

Employees of the following agencies (or agency components), or in the following categories, are subject to more extensive restrictions on their political activities than employees in other Departments and agencies:

Administrative Law Judges (positions described at [5 U.S.C. § 5372](#))  
 Central Imagery Office  
 Central Intelligence Agency  
 Contract Appeals Boards (positions described at [5 U.S.C. § 5372a](#))  
 Criminal Division (Department of Justice)  
 Defense Intelligence Agency  
 Federal Bureau of Investigation  
 Federal Elections Commission  
 Merit Systems Protection Board  
 National Security Agency  
 National Security Council  
 Office of Criminal Investigation (Internal Revenue Service)  
 Office of Investigative Programs (Customs Service)  
 Office of Law Enforcement (Bureau of Alcohol, Tobacco and Firearms)  
 Office of Special Counsel  
 Secret Service  
 Senior Executive Service (career positions described at [5 U.S.C. § 3132\(a\)\(4\)](#))

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#### Permitted/Prohibited Activities for Employees Who May Not Participate in Partisan Political Activity

These federal employees **may**-

(Continued on page 11)

(Continued from page 10)

- register and vote as they choose
- assist in voter registration drives
- express opinions about candidates and issues
- participate in campaigns where none of the candidates represent a political party
- contribute money to political organizations or attend political fund raising functions
- attend political rallies and meetings
- join political clubs or parties
- sign nominating petitions
- campaign for or against referendum questions, constitutional amendments, municipal ordinances

These federal employees **may not**-

- be candidates for public office in partisan elections
- campaign for or against a candidate or slate of candidates in partisan elections
- make campaign speeches
- collect contributions or sell tickets to political fund raising functions
- distribute campaign material in partisan elections
- organize or manage political rallies or meetings
- hold office in political clubs or parties
- circulate nominating petitions
- work to register voters for one party only
- wear political buttons at work

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#### Penalties for Violating the Hatch Act

An employee who violates the Hatch Act shall be removed from their position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Merit Systems Protection Board finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Board.

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#### Frequently Asked Questions and Answers For Employees Who May Engage in Partisan Political Activity

Listed below are answers to some of the most frequently asked questions received by OSC about political activity by federal employees.

**Question: Can I make a contribution to the campaign of a partisan candidate, or to a political party or organization?**

**Answer:** Yes. A federal employee may contribute to the campaign of a partisan candidate, or to a political party or organization.

**Question: If I have a bumper sticker on my personal car, am I allowed to park the car in a government lot or garage, or in a private lot/garage if the government subsidizes my parking fees?**

**Answer:** Yes. An employee is allowed to park his or her privately owned vehicle with bumper sticker in a government lot or garage. An employee may also park the car with a bumper sticker in a private lot or garage for which the employee receives

(Continued on page 12)

(Continued from page 11)

a subsidy from his or her agency.

**Question: Can I help organize a political fundraiser?**

*Answer: An employee is allowed to organize a fundraiser, including supplying names for the invitation list, as long as he or she does not personally solicit, accept, or receive contributions.*

**Question: Can my name appear on invitations to a political fundraiser as a sponsor or point of contact?**

*Answer: No. An employee's name may not be shown on an invitation to such a fundraiser as a sponsor or point of contact.*

**Question: Can I speak at a political fundraiser?**

*Answer: An employee is allowed to give a speech or keynote address at a political fundraiser, as long as he or she is not on duty, and does not solicit political contributions.*

**Question: If I'm going to speak at a political fundraiser, what information about me can be printed on the invitations?**

*Answer: An employee's name can be shown as a guest speaker. However, the reference should not in any way suggest that the employee solicits or encourages contributions. Invitations to the fundraiser may not include the employee's official title; although an employee who is ordinarily addressed with a general term of address such as "The Honorable" may use, or permit the use of, that term of address on the invitation.*

**Question: Can I attend a state or national party convention? If so, in what capacity?**

*Answer: Yes. A federal employee may serve as a delegate, alternate, or proxy to a state or national party convention.*

**Question: If I run as a candidate for public office in a nonpartisan election, does the Hatch Act allow me to ask for and accept political contributions?**

*Answer: An employee who is a candidate for public office in a nonpartisan election is not barred by the Hatch Act from soliciting, accepting, or receiving political contributions for his or her own campaign.*

**Question: May I distribute brochures for a political party to people arriving at a polling place on Election Day?**

*Answer: Yes. An employee may stand outside a polling place on Election Day and hand out brochures on behalf of a partisan political candidate or political party.*

Answers to other questions about allowable political activity by federal employees can also be found in Hatch Act regulations in title 5 of the Code of Federal Regulations. Questions not answered above, or in the regulations, can be submitted to OSC for an [advisory opinion](#).

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## **TEN THINGS TO HELP ENSURE YOUR ABSENTEE VOTE IS COUNTED**

1. Start by contacting your Unit/Embassy/Organization Voting Assistance Officer for help in absentee registration and voting.
2. Visit the Federal Voting Assistance Program's website at [www.fvap.gov](http://www.fvap.gov) for information on the absentee registration and voting process.
3. Ensure that you have applied for your absentee ballot using the hard copy or on-line versions of the FPCA.
4. Make sure your local election official has your current mailing address.

(Continued on page 13)

(Continued from page 12)

5. Sign and date all election materials.
6. Fulfill your state's witness/notary requirements (if required).
7. Ensure that your ballot or FPCA is postmarked.
8. Register to vote and request your ballot in a timely manner – not later than September.
9. VOTE – mail your ballot not later than October 15, 2004.
- 10. Use the Federal Write In Absentee Ballot if you are overseas and your State absentee ballot does not arrive in time to be mailed back by the state's deadline.**

## **Absentee Voting Frequently Asked Questions**

### **INTRODUCTION**

The *Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA)* covers the voting rights of members of the Uniformed Services (on active duty), members of the Merchant Marine, their eligible family members, and U.S. citizens residing outside the U.S. The Federal Voting Assistance Program (FVAP) carries out the responsibilities of this Act by providing guidance about participating in the democratic process to these citizens, regardless of their location in the world.

The procedures and deadlines to vote absentee vary from state to state.

### **GENERAL INFORMATION**

#### **Can I vote absentee?**

Generally, all U.S. citizens 18 years or older who are or will be residing outside the United States during an election period are eligible to vote absentee in any election for Federal office. In addition, all members of the Uniformed Services, their family members and members of the Merchant Marine and their family members, who are U.S. citizens, may vote absentee in Federal, state and local elections.

#### **How do I apply for an absentee ballot?**

Use the Federal Post Card Application (FPCA). The FPCA is accepted by all states and territories as an application for registration and for absentee ballot. It is postage-free when placed in the U.S. mail. You may also send a written request for a ballot to your county, city, town or parish clerk. The on-line version of the FPCA (OFPCA) is available at the Federal Voting Assistance Program's (FVAP) website, [www.fvap.gov](http://www.fvap.gov), but must be completed, printed out, signed, dated and placed in an envelope affixed with proper postage, and mailed to your Local Election Official. All States and Territories except American Samoa and Guam accept the OFPCA.

#### **I would like to vote but don't know how. Where can I find assistance?**

Specific information on applying for absentee registration and a ballot is contained in the [Voting Assistance Guide](#). Voting Assistance Officers assigned to units at military installations and at each U.S. embassy or consulate have a copy of the [Guide](#) to assist you in completing your FPCA. U.S. citizen organizations overseas and many corporate offices of U.S. companies also have copies of the [Guide](#) to assist you. Members of the Uniformed Services and U.S. embassy/consulate personnel may request hard copies of the [Guide](#) through their normal distribution channels or by contacting their Service or Department of State Voting Action Officer. Other overseas citizens may request these materials by contacting the FVAP directly at [vote@fvap.ncr.gov](mailto:vote@fvap.ncr.gov). You will also find PDF versions of the [Guide](#) as well as other voting related information and links on the FVAP website, [www.fvap.gov](http://www.fvap.gov).

(Continued on page 14)

(Continued from page 13)

### **Do I have to be registered to vote absentee?**

Registration requirements vary from state to state. States and territories allow the citizen to register and request an absentee ballot by submitting a single FPCA during the election year. If you are permanently registered you should submit an FPCA early in the election year. Consult Chapter 3 of the [Voting Assistance Guide](#) for specifics.

### **Where do I send my FPCA?**

Chapter 3 of the [Guide](#) outlines absentee voting procedures for each state and territory. In section III under the heading of "Where to Send It" you will find a list of addresses for county and local election officials for your state or territory of legal voting residence. These officials may need to contact you for further information, please provide a current email address, phone and fax number on the FPCA.

### **Must I submit a separate application for each election?**

In all states and territories, one FPCA will secure for the applicant both primary and general election ballots for Federal offices for an entire calendar year. The Help America Vote Act of October 2002 has extended the effective period of the FPCA through two regularly scheduled general elections for federal office. However, due to the transient nature of many UOCAVA citizens, **FVAP continues to recommend that each citizen submit an FPCA to their state of legal residence in January of each year** and again each time there is a change in the citizens mailing address.

### **If I am required to have my FPCA or ballot notarized, how do I do it?**

Generally, election materials may be witnessed or sworn to before a notary, U.S. Commissioned Officer, embassy or consular officer, or other officials authorized to administer oaths. Most states and territories do not require notarization of the FPCA or ballot; therefore, consult Chapter 3 of the [Guide](#) to determine your state or territory's requirements. In all instances you must sign and date the FPCA.

### **When mailing an FPCA or other election materials to my state or territory, do I have to pay postage?**

Generally, all election-related materials are mailed postage-free from any APO or FPO mail facility, all U.S. embassies and consulates and any post office in the U.S. You must pay postage if the materials are mailed from a non-U.S. postal facility. The on-line version of the FPCA must be printed out, signed, dated and mailed in an envelope with proper postage affixed. Ensure that your ballot or FPCA is postmarked.

### **When is the best time to apply for an absentee ballot?**

Generally, the FPCA used to request only a ballot should be received by election officials at least forty-five days before election day to allow ample time to process the request and mail the ballot. If applying for both registration and an absentee ballot, the FPCA may have to be mailed earlier. FVAP recommends submitting the FPCA in January of each year. Consult Chapter 3 of the [Guide](#) for further information on state or territorial registration deadlines. Be sure to notify your election official of any change to your address.

### **When should I receive my ballot?**

Under normal circumstances, most states and territories begin mailing ballots to citizens 30-45 days before an election. If you have not received your ballot two weeks before the election, contact the Federal Voting Assistance Program's (FVAP) Ombudsman Service. They will assist you in determining when your ballot was mailed. Always execute and return your absentee ballot regardless of when you receive it. Court decisions sometimes require the counting of ballots voted by election day, but received late. See the Ombudsman Service and Federal Write-In Absentee Ballot sections below.

### **What is an election for Federal office?**

An election for Federal office is any general, special, runoff or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, Presidential elector, Member of the United States Senate, Member of the United States House of Representatives, Delegates from the District of Columbia, Guam, Virgin Islands, and American Samoa, and Resident Commissioner of the Commonwealth of Puerto Rico.

### **What is the Federal Write-In Absentee Ballot (FWAB) for overseas citizens?**

(Continued on page 15)

(Continued from page 14)

Overseas citizens may be able to use a Federal Write-In Absentee Ballot (FWAB) available through Voting Assistance Officers at military installations or at U.S. embassies/consulates. To be eligible for this ballot, a citizen must:

1. *Be located overseas (including APO/FPO addresses).*
2. *Apply for a regular ballot early enough so that the request is received by the local election official at least 30 days before the election.*

*Not have received the requested regular absentee ballot.*

In summary, the FWAB is only valid from outside the United States when a regular ballot from the state or territory has already been requested in a timely manner and has not been received. Return the voted FWAB to the local election official to meet the state or territorial deadline for counting. Presently, eleven states have expanded the use of the FWAB: Colorado, Connecticut, Iowa, Maryland, Montana, Nebraska, Oklahoma, Rhode Island, Texas, Virginia and West Virginia. Refer to Chapter 3 of the [Guide](#) for details.

### **Where would I obtain information on issues and positions taken by candidates?**

In addition to reading U.S. news magazines and newspapers, both Democrats Abroad and Republicans Abroad maintain overseas offices and have information about the candidates and issues. U.S. embassies and consulates can provide the local addresses or phone numbers for these organizations. Alternatively, the party organizations can be contacted by writing:

Democrats Abroad  
430 South Capitol Street, S.E.  
Washington, DC 20003  
Phone: (202) 863-8103  
Fax: (202) 863-8063  
World Wide Web: [www.democratsabroad.org](http://www.democratsabroad.org)  
Email: [info@democratsabroad.org](mailto:info@democratsabroad.org)  
Republicans Abroad International  
209 Pennsylvania Avenue, S.E.  
Washington, D.C. 20003  
Phone: (202) 608-1423  
Fax: (202) 608-1431  
World Wide Web: [www.republicansabroad.org](http://www.republicansabroad.org) or  
[www.republicansabroad.com](http://www.republicansabroad.com)  
General Information Email: [mail@republicansabroad.org](mailto:mail@republicansabroad.org)



**Where can I find information on state and local issues while overseas?** Surf the Web for information! Alternatively, subscribe to hometown newspapers, or contact friends and relatives for information on state and local issues. Armed Forces Radio and Television Service broadcasts American news and entertainment programs throughout the world. Also, the DoD Voting Information Center (VIC) provides an avenue for information on candidates for citizens voting under the UOCAVA. See the VIC section below.

## **MILITARY**

### **Where is my "legal voting residence?"**

For voting purposes, your "legal voting residence" can be the state or territory where you last resided prior to entering military service or the state or territory that you have since claimed as your legal residence. To claim a new legal residence you must have simultaneous physical presence and the intent to return to that location as your primary residence. Military and family members may change their legal residence every time they change permanent duty stations or they may retain their legal residence without change. Family members may have a different legal voting residence from the member. A legal officer should be consulted before legal residence is changed because there are usually other factors that should be considered besides voting. Be sure to enter the complete address of your legal voting residence, including street or rural route and number, when completing the residence section of the FPCA. Even though you may no longer maintain formal ties such as property ownership to that residence, the address is needed to place you in a proper voting district, ward, precinct or parish.

(Continued on page 16)

(Continued from page 15)

### **Can I vote in person where I am stationed?**

Military members may vote in the state or territory where stationed if they change their legal residence to that state or territory, even if they live on a military installation. Be advised that there are legal obligations that may be incurred, such as taxation, if you change your state or territory of residence. Therefore, consult a legal officer before making such a decision. At the present time, there are no provisions for personnel stationed outside the United States to vote, in person, where stationed.

### **My family members are not in the military; can they also vote absentee?**

The law entitles eligible family members of military personnel to vote absentee. Family members are considered to be in the same category of absentee voter as military members and generally should follow the same procedures. Family members of military personnel residing overseas, who are U.S. citizens and who have never resided in the U.S., usually claim a U. S. citizen parent's legal state of residence as their own.

## **OVERSEAS CITIZENS**

### **If I do not maintain a legal residence in the U.S., what is my "legal state of residence?"**

Your "legal state of residence" for voting purposes is the state or territory where you last resided immediately prior to your departure from the United States. This right extends to overseas citizens even though they may not have property or other ties in their last state or territory of residence and their intent to return to that state or territory may be uncertain. When completing the residence section of the FPCA, be sure to enter the entire mailing address of your last residence, including street or rural route and number. This information is necessary to place you in the proper voting district, ward, precinct or parish. Family members of citizens residing overseas, who are U.S. citizens and who have never resided in the U.S., usually, if the state allows, claim one of their U.S. citizen parent's legal state or territory of residence as their own. Check Chapter 3 of the [\*Guide\*](#).

### **Will I be taxed by my last state or territory of residence if I vote absentee?**

Exercising your right to vote in elections for **Federal offices only**, does not affect the determination of residence or domicile for purposes of any tax imposed under Federal, state, or local law. Voting in an election for **Federal office only**, may not be used as the sole basis to determine residency for the purpose of imposing state and local taxes. If you claim a particular state or territory as your residence and have other ties with that state or territory in addition to voting, then you may be liable for state and local taxation, depending upon the laws of that particular state or territory. Consult the [\*Guide\*](#) or a legal advisor for information on probable tax obligations.

### **Can I register or vote in person at the embassy or consulate?**

At the present time, there are no provisions for in-person voting or on-site registration to be conducted at U.S. embassies or consulates. U.S. embassy and consular officials will assist U.S. citizens in completing FPCA forms for their state, witness or notarize FPCA forms and ballots (if required), and provide other absentee voting information. U.S. embassy and consulate locations serve also as a mailing point. FPCA forms and other election materials may be mailed back, postage paid, to your local voting jurisdiction in the U.S. where absentee registration and ballot requests are processed.

## **THE FVAP'S WEBSITE**

The FVAP website, [www.fvap.gov](http://www.fvap.gov), is home to a variety of information about voting and elections. The information is updated regularly. Answers to almost any voting related question can be found 24 hours a day, seven days a week just by accessing the website. The website contains general information on absentee voting, including a list of frequently asked questions, and training schedules for voting assistance officers during federal election years. The on-line version of the [\*Voting Assistance Guide\*](#) contains up to date information for state-by-state registration and absentee ballot request procedures. Also, available on the website is the on-line version of the FPCA, a convenient alternative, which is accepted by all the states, the District of Columbia and all territories with the exception of Guam and American Samoa. All FVAP publications, including News Releases and archived issues of the monthly *Voting Information Newsletter* can be found on the site. The website also contains links to many voting related sites, including all state elections sites, which provide information about upcoming elections, and links to U.S. Senate and U.S. House of Representatives.

## **OMBUDSMAN SERVICE**

Citizens covered by the *Uniformed and Overseas Citizens Absentee Voting Act* can obtain additional information about the

(Continued on page 17)

(Continued from page 16)

absentee voting process by calling the FVAP [toll free](#) from many countries. The number may vary from country to country. (You can obtain the number from the [Voting Assistance Guide](#), FVAP's website, [www.fvap.gov](http://www.fvap.gov), the International Operator in the United States, or from your local U. S. embassy or consulate). If a country does not have a toll free number, a citizen may call (703) 588-1584. The toll free number in the U.S., Canada, Guam, Puerto Rico and the Virgin Islands is 800-438-VOTE or 800-438-8683. Assistance is available during normal business hours, Eastern Time; you may leave a recorded message with complete contact information at other times.

International toll free [phone](#) and [fax](#) numbers are available.

## ELECTRONIC TRANSMISSION OF ELECTION MATERIALS

Often, transmitting voting materials by mail may delay timely receipt and return of materials. When such conditions exist, possibly preventing an individual from voting, faxing may be possible. Generally, there are three possibilities or combinations allowed by states:

1. *Send the FPCA or registration and ballot request by fax.*
2. *Receive the blank ballot by fax.*

*Return the voted ballot by fax.*

Consult your unit or embassy/consulate Voting Assistance Officer for the procedures for the electronic transmission process. The [Voting Assistance Guide](#) explains the fax process, each state's procedures and provides a fax cover sheet. Always mail the original FPCA and voted ballot after faxing.

For election-related materials, citizens in the U.S., Canada, Guam, Puerto Rico and the Virgin Islands may use one of the following fax numbers: (703) 693-5527, (800) 368-8683 or DSN 223-5527. See the [Voting Assistance Guide](#) or FVAP's website, [www.fvap.gov](http://www.fvap.gov), for international toll free fax numbers.

## VOTING INFORMATION CENTER

The Voting Information Center (VIC) provides information on elections and recorded messages from U.S. Senators, U.S. Representatives and state Governors. Approximately thirty days prior to an election, messages from candidates for these offices are also available. Callers may connect directly to the office of U.S. Senators, U.S. Representative, Governor or their chief state election official through the VIC. Any questions that cannot be answered locally, concerning election dates or candidates, may be referred to the VIC.

Any questions that cannot be answered locally, concerning election dates or candidates, may be referred to the VIC.

Each Military Service and the Department of State has a Voting Action Officer who is the point of contact for assisting voters who have unique questions/problems. The VIC also provides direct access to these Action Officers during normal business hours in the U.S.; a recorded message may be left at other times.

Any person may call the Voting Information Center. Telephone numbers: Commercial (703) 588-1343 (Collect calls not accepted), DSN 425-1343. DSN use is authorized for all military and family members. [Toll free numbers](#) are available for over 60 countries.

The [Voting Assistance Guide](#) contains further information on the Voting Information Center and access by toll free numbers. Any question which cannot be answered by a Voting Assistance Officer should be directed to the:

Director, Federal Voting Assistance Program

Department of Defense

1155 Defense Pentagon

Washington, DC 20301-1155

FVAP website: [www.fvap.gov](http://www.fvap.gov)

Email: [vote@fvap.ncr.gov](mailto:vote@fvap.ncr.gov)

Commercial: (703) 588-1584

DSN (military): 425-1584

Fax: (703) 588-0108

Toll Free (U.S., Canada, Guam, Puerto Rico, Virgin Islands): 1-800-438-VOTE (8683)

[www.fvap.gov](http://www.fvap.gov)

[vote@fvap.ncr.gov](mailto:vote@fvap.ncr.gov)

(Continued from page 1)

before political gatherings or serve as officers of political parties or partisan groups. They also are permitted to manage campaigns, distribute literature, write political articles or serve as a spokesperson for a party or candidate.

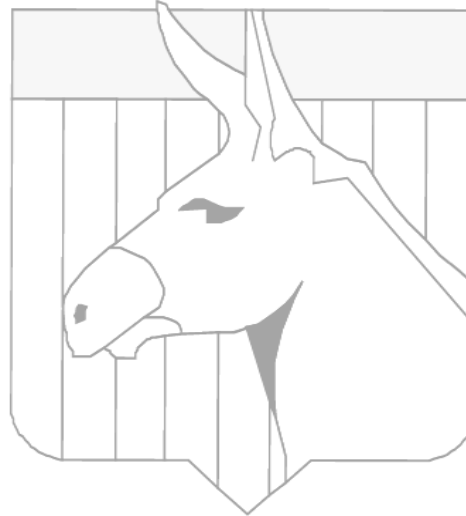
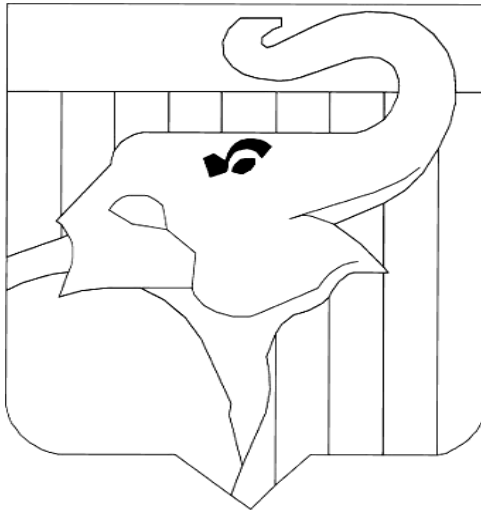
Military members generally aren't permitted to campaign for a political office. Civilian employees are, as long as it's a nonpartisan election.

While the dos and don'ts concerning political activity may vary, Epstein said the basic rules hold true for all DoD workers. They can't use their position to influence or interfere with an election. And they can never engage in political activity on the job, in a government vehicle or while wearing an official uniform.

More details about restrictions on DoD military and civilian employees' political activities are posted on the DoD Web site at [www.osc.gov](http://www.osc.gov).

## **Military, civilian voting assistance**

Military can get help obtaining ballots from



their home states and more from the Federal Voting Assistance Program. The voting assistance officers are armed with federal postcard applications and the 2004 Voting Assistance Guide. The guide is

also posted on the Federal voting Assistance Program Web site at [www.fvap.gov](http://www.fvap.gov).

"The Federal Voting Assistance Program is for military only because many aren't living in their home states and it's much harder for them to vote," said Eileen Mitchell, voting assistance officer at Fort Dietrick, Md. Government civilians living overseas can also use the program, she said.

Most government civilians live where they vote and it's much easier for them to register and get the forms, Mitchell said.

Civilians who need voting assistance can pick up registration forms at local post offices, county libraries, school guidance counselors and the Motor Vehicle Administration.

*For additional help, visit [www.elections.state.md.us](http://www.elections.state.md.us) to download forms and other voting information.*

